

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 17

RIN 1018-AB36

**Endangered and Threatened Wildlife and Plants; *Dicerandra christmanii* (Garrett's Mint) Determined To Be Endangered****AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Final rule.

**SUMMARY:** *Dicerandra frutescens* (Lamiaceae), native to Florida, is an endangered species on the List of Endangered and Threatened Plants (List). A newly published taxonomic analysis shows that *Dicerandra frutescens*, as it was delimited when added to the List, actually consists of two distinct species, one retaining the name *Dicerandra frutescens* (scrub mint), the other newly named *Dicerandra christmanii* (Garrett's mint). The plants that are transferred to *Dicerandra christmanii* retain the protection of the Endangered Species Act that they were given under their previous name. This rule gives public notice to adoption of the new name by the Fish and Wildlife Service.

**EFFECTIVE DATE:** September 21, 1989.**ADDRESSES:** David J. Wesley, Field Supervisor, U.S. Fish and Wildlife Service, Jacksonville Field Office, 3100 University Boulevard South, Suite 120, Jacksonville, Florida 32216.**FOR FURTHER INFORMATION CONTACT:** David J. Wesley, Phone: 904/791-2580 or FTS 946-2580.**SUPPLEMENTARY INFORMATION:****Effective Date**

The usual 30-day delay between date of publication of a final rule and its effective date may be waived for cause, as provided by 50 CFR 424.18(b)(1) and by the Administrative Procedure Act (5 U.S.C. 553(d)(3)). The Service finds that this period be waived for this rule because the rule's only purpose is to

make a technical correction to the List of Endangered and Threatened Plants.

**Background**

*Dicerandra frutescens* (scrub mint) was listed as an endangered species on November 1, 1985 (50 FR 45621) under the provisions of the Endangered Species Act of 1973, as amended. A recently published taxonomic analysis (Huck et al. 1989) finds that plants belonging to two populations in the northern part of the range of *Dicerandra frutescens* are clearly distinct from plants from the southern populations in "anther and corolla color, essential oils, average leaf length, and anther connective glandularity." These differences are very evident on live plants, but not on herbarium specimens, explaining why they had not been noticed earlier. The northern populations are now designated as a distinct species under the new name *Dicerandra christmanii* Huck & Judd (Huck et al. 1989). The nomenclatural transfer of these populations to a new species does not affect their protected status under the Endangered Species Act.

The Fish and Wildlife Service uses the most recently accepted scientific names for listed plants (50 CFR 17.12(b)); accordingly, the List of Endangered and Threatened Plants is being revised to include the name *Dicerandra christmanii* (common name: Garrett's mint). Other information provided for *Dicerandra christmanii* in the List will be identical to the information for *Dicerandra frutescens*, which remains in the List with its entries unaltered. This adoption of a current scientific name is nonregulatory in nature (50 CFR 17.12(d)). This rule is published to clarify the reason for Service's adoption of the new name and to provide a record of the change in nomenclature in the "when listed" column of the List for future reference.

**National Environmental Policy Act**

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the

authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the Federal Register on October 25, 1983 (48 FR 49244).

**Reference Cited**

Huck, R.B., W.S. Judd, W.M. Whitten, J.D. Skean, Jr., R.P. Wunderlin, and K. DeLaney. 1989. A new *Dicerandra* (Labiatae) from the Lake Wales Ridge of Florida, with a Cladistic Analysis and Discussion of Endemism. Systematic Botany 14(2): 197-213.

**Author**

The primary author of this final rule is David Martin, Jacksonville Field Office, U.S. Fish and Wildlife Service, 3100 University Boulevard South, Suite 120, Jacksonville, Florida 32216 (904/791-2580 or FTS 946-2580).

**List of Subjects in 50 CFR Part 17**

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

**Regulation Promulgation****PART 17—[AMENDED]**

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for part 17 is revised to read as follows:

Authority: 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1543; 16 U.S.C. 4201-4245; Public Law 99-625, 100 Stat. 3500; unless otherwise noted.

2. The authority citation for subpart J, part 17, is removed.

3. Amend § 17.12(h) by adding the following, in alphabetical order under the family Lamiaceae to the List of Endangered and Threatened Plants:

**§ 17.12 Endangered and threatened plants.**

\* \* \* \* \*

(h) \* \* \*

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Lamiaceae-Mint family:						
<i>Dicerandra christmanii</i> .....	Garrett's mint.....	U.S.A. (FL).....	E	207,361	NA	NA
<i>Dicerandra frutescens</i> .....	Scrub mint.....	U.S.A. (FL).....	E	207,361	NA	NA

Dated: September 11, 1989.

David L. Olsen,  
Acting Director, Fish and Wildlife Service.

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## 50 CFR Part 17

RIN 1018-AB 23

### Endangered and Threatened Wildlife and Plants; Small Anthered Bittercress Determined To Be Endangered

AGENCY: Fish and Wildlife Service.  
Interior.

ACTION: Final rule.

**SUMMARY:** The Service Determines *Cardamine micranthera* (small-anthered bittercress), a perennial herb limited to four populations in North Carolina, to be an endangered species under the authority of the Endangered Species Act of 1973, as amended (Act). *Cardamine micranthera* is endemic to Stokes and Forsyth Counties, North Carolina, and is endangered by conversion of habitat for agricultural and silvicultural purposes, floods, stream channelization and impoundment, and encroachment of exotic plants. This action implements Federal protection provided by the Act for *Cardamine micranthera*.

**EFFECTIVE DATE:** October 23, 1989.

**ADDRESSES:** The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801.

**FOR FURTHER INFORMATION CONTACT:** Ms. Nora Murdock, at the above address (704/259-0321 or FTS 672-0321).

#### SUPPLEMENTARY INFORMATION:

##### Background

*Cardamine micranthera*, first described by R. C. Rollins (1940) from material collected in North Carolina in 1939, is an erect, slender, perennial herb with fibrous roots and one (or rarely more) simple or branched stem growing 2 to 4 decimeters tall. Basal leaves are 1 to 2 centimeters (cm) long, 0.5 to 0.6 cm

wide, crenate, with one (or rarely two) pair of small lateral lobes. The stem leaves are alternate and mostly unlobed, 1 to 1.5 cm long, crenate and cuneate. Flowers and fruits are borne in April and May. The flowers, subtended by leafy bracts, have four white petals, six stamens, and small, round anthers. The fruit is a silique 0.8 to 1.2 cm long and approximately 1 millimeter (mm) in diameter with a beak 1 to 1.2 mm long. The brown seeds are approximately 1 mm long.

*Cardamine micranthera* can be distinguished from its most similar relative, *Cardamine rotundifolia*, by its much smaller, nearly orbicular (instead of oblong) anthers, smaller flowers, and more angulate leaves. In *Cardamine micranthera* the anthers are about 0.5 mm long, and the petals are 1.2 to 2 mm wide; whereas in *Cardamine rotundifolia*, the narrowly oblong anthers measure from 1.2 to 1.6 mm long, and the petals are 2.5 to 3.5 mm wide. Growth habits of the two species differ as well, *Cardamine rotundifolia* has decumbent stems with proliferating branches arising both from the main axis and often from the inflorescences. *Cardamine micranthera* has erect or only basally decumbent stems with no proliferating branches. Also, the siliques and styles of *Cardamine micranthera* are only about half as long as those of *Cardamine rotundifolia* (Rollins 1940, Cooper *et al.* 1977, Radford *et al.* 1964).

*Cardamine micranthera* is endemic to seepages, streambanks, and moist woods along a few small streams in Stokes and Forsyth Counties, North Carolina. The single population in Forsyth County was destroyed when the site was converted to cattle pasture in the early 1960s. Repeated searches for the single population known at that time from Stokes County were unsuccessful, and the species was presumed extinct (Cooper *et al.* 1977). In 1985, nearly 30 years after the species had last been seen, it was again located in Stokes County by S. W. Leonard (1986). Subsequent searches by A. Weakley (North Carolina Natural Heritage Program) and N. Murdock (Service) resulted in the discovery of three more populations in Stokes County. All four remaining populations are located on

privately owned lands. The continued existence of this species is threatened by conversion of its habitat to pasture, habitat destruction and/or desiccation associated with logging, encroachment by aggressive nonnative species such as Japanese honeysuckle *Lonicera japonica* Thunberg), impoundment or channelization of the small stream corridors it occupies, and flooding and associated scouring of its streambank habitat.

The remaining populations are small in numbers of plants and extent of occupied habitat. The smallest population consists of only 3 plants; the largest, consisting of about 200 plants, occupies less than a tenth of a mile of streambank. With all four remaining sites in private ownership, the species is extremely vulnerable to extirpation resulting from habitat alteration.

Federal government actions on this species began with section 12 of the Endangered Species Act of 1973, which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document Number 94-51, was presented to Congress on January 9, 1975. The Service published a notice in the July 1, 1975, *Federal Register* (40 FR 27832) of its acceptance of the Smithsonian Institution report as a petition within the context of section 4(c)(2) (now section 4(b)(3)) of the Act and of its intention thereby to review the status of the plant taxa named within. *Cardamine micranthera* was included in the July 1, 1975, notice of review. On December 15, 1980, the Service published a revised notice of review for native plants in the *Federal Register* (45 FR 82480). *Cardamine micranthera* was included in that notice as a category 1 species. Category 1 species are those species for which the Service currently has on file substantial information on biological vulnerability and threats to support proposing to list them as endangered or threatened species. A revision of the 1980 notice that maintained *Cardamine micranthera* in this category was published on September 27, 1985 (50 FR 39526).

Section 4(b)(3)(B) of the Endangered Species Act, as amended in 1982, requires the Secretary to make certain findings on pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 amendments further requires that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This is the case for *Cardamine micranthera* because of the acceptance of the 1975 Smithsonian report as a petition. In October of 1983, 1984, 1985, 1986, and 1987, the Service found that the petitioned listing of *Cardamine micranthera* was warranted but precluded by other listing actions of a higher priority and that additional data on vulnerability and threats was still being gathered. The February 1, 1989, proposal of *Cardamine micranthera* to be endangered (54 FR 5095) constituted the final 12-month finding for this species.

#### Summary of Comments and Recommendations

In the February 1, 1989, proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice inviting public comment was published in the "Danbury Reporter" on February 22, 1989.

Four comments were received, all of which expressed support for the proposal.

#### Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Cardamine micranthera* should be classified as an endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 224) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Cardamine micranthera* Rollins (small-anthered bittercress) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Four populations of *Cardamine micranthera* are known to exist in Stokes County, North Carolina. One other historically known population

has been extirpated due to conversion of the habitat to cattle pasture. The four remaining populations are located in privately owned lands and are small and extremely vulnerable to extirpation. Activities that could further threaten the continued existence of *Cardamine micranthera*, if not undertaken in a manner consistent with protection of the species, include impoundment, channelization, conversion of the habitat to pasture, logging, encroachment of exotic species such as *Lonicera japonica*, and flooding (which will be discussed in detail under Factor E below).

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* *Cardamine micranthera* is not currently a significant component of the commercial trade in native plants. However, because of its small and easily accessible populations, it is vulnerable to taking and vandalism that could result from increased specific publicity.

C. *Disease or predation.* Not applicable to this species at this time.

D. *The inadequacy of existing regulatory mechanisms.* On September 1, 1989, *Cardamine micranthera* was added as an endangered species to the State list of endangered species in North Carolina (R. Sutter, North Carolina Plant Protection Program, personal communication, 1989). The plant is afforded legal protection in that State by North Carolina General Statutes, sections 106-202.12 to 106-202.19, which provide for protection from intrastate trade (without a permit), monitoring and management of State-listed species, and prohibition against taking plants without written permission of landowners. State prohibitions against taking are difficult to enforce and do not cover adverse alterations of habitat, such as channelization, impoundment, or conversion for agricultural or silvicultural use. Section 404 of the Federal Water Pollution Control Act could potentially provide some protection for the habitat of *Cardamine micranthera*; however, most, if not all, of the sites where it occurs do not meet the wetlands criteria of the Federal Water Pollution Control Act. The Endangered Species Act would provide additional protection and encouragement of active management for *Cardamine micranthera*.

E. *Other natural or manmade factors affecting its continued existence.* As mentioned in the "Background" section of this final rule, the four remaining populations of this species are small in numbers of individual stems and in area covered by the plants. In some cases aggressive exotic species such as

*Lonicera japonica* have invaded adjacent areas and threaten to invade this species' habitat, which could result in the elimination of *Cardamine micranthera*. The natural habitat of this species consists of small streambank seeps and, secondarily, adjacent sandbars and stream edges. At one of the remaining populations, the original seep habitat can no longer be found, and the surviving plants now exist only in the streambed on two small sandbars. In this situation, the species is highly vulnerable to natural catastrophes such as floods, which could scour the streambed and eliminate the few remaining plants. In unaltered habitat, where most of the plants occupy the seepages above the actual stream channel, flooding and scouring of the streambed is not as potentially threatening to the species as in altered habitats. In unaltered habitats, scoured areas where plants have been eliminated are readily recolonized by the populations in the seeps.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Cardamine micranthera* as endangered. With only four populations remaining in existence (one having already been eliminated) and with all the remaining populations being small, highly vulnerable, and located in privately owned land, the species definitely warrants protection under the Act. Endangered status seems appropriate because of the imminent serious threats facing the four remaining populations. Critical habitat is not being designated for the reasons discussed below.

#### Critical Habitat

Section 4(a)(3) of the Act requires, to the maximum extent prudent and determinable, that the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not presently prudent for this species. As discussed under Factor B in the "Summary of Factors Affecting the Species" section, *Cardamine micranthera* is threatened by taking and vandalism. These activities are difficult to enforce against and only regulated by the Act with respect to plants in cases of (1) removal and reduction to possession of listed plants from lands under Federal jurisdiction, or their malicious damage or destruction on such lands; and (2) removal, cutting, digging up, or